

WATER/RSK/FLC/PTL

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**DIVISION OF WATER AND AUDITS
Water and Sewer Advisory Branch**

**RESOLUTION W-4747
March 12, 2009**

R E S O L U T I O N

(RES. W-4747), BAKMAN WATER COMPANY (BAKMAN). ORDER AUTHORIZING A SURCHARGE OF \$5.82 PER CUSTOMER PER MONTH FOR TWELVE MONTHS FOR RECOVERY OF LEGAL COSTS RECORDED IN A MEMORANDUM ACCOUNT ASSOCIATED WITH A WATER CONTAMINATION LAWSUIT AND TO CREDIT THE SAME AMOUNT TO CONTRIBUTION-IN-AID-OF-CONSTRUCTION (CIAC).

SUMMARY

By Advice Letter 65, filed on August 1, 2008, amended by Advice Letter 65-A, dated December 1, 2008, Bakman, a class C water utility, requested the Division of Water and Audits (Division) to authorize its recovery of one-half of the difference between certain lawsuit costs and settlement revenues, after allowance for income taxes, and to record the other half as a reduction to CIAC. This Resolution authorizes recovery through a surcharge of \$5.82 per customer per month for twelve months and credits the same amount to CIAC.

BACKGROUND

In Decision (D.) 03-10-002, regarding disposition of the proceeds from two earlier water contamination lawsuits pursued by Bakman, the Commission required:

“If, in the future, Bakman receives any additional lawsuit proceeds (from any type of lawsuit filed), it should place the money in a memorandum account and file an advice letter seeking Commission guidance on the appropriate accounting of the revenue.”

Regarding proceeds from the second of the two lawsuits, against Shell Oil Company and other defendants, the Commission ordered:

“A portion of the Shell Oil Company (Shell Oil) lawsuit proceeds shall be credited to CIAC. The amount credited to CIAC shall be computed as follows: (1) the net Shell Oil lawsuit proceeds rounded (\$757,400); (2)

minus the taxes Bakman paid on these proceeds; (3) minus the SDWBA [Safe Drinking Water Bond Act] balance as of the date Bakman's tariffs become effective pursuant to Ordering Paragraph 1; (4) divided by two."

NOTICE AND PROTESTS

Notice of the proposed rate increase was published in The Fresno Bee, a newspaper of general circulation, on January 21, 2009, as evidenced by proof of publication provided to the Division by the utility. No protests were received.

DISCUSSION

In January and February, 2005, Bakman received a total of \$197,000 in settlement proceeds from a third water contamination lawsuit filed by Bakman against Boeing, City of Fresno, and the Corps of Engineers. Staff reviewed Bakman's expenditures of \$525,883 recorded for the lawsuit and related costs after issuance of D.03-10-002, which was included in the Advice Letter 65-A, and found them reasonable. After subtracting \$197,000 of revenues, Bakman lost \$377,123 ($\$525,883 - \$197,000 + \$48,240$) including interest charges of \$48,240.

Bakman's income taxes computed on a standalone basis are \$128,222. Therefore, the after-tax losses are \$248,901 ($\$377,123 - \$128,222$). One half of this amount is \$124,450 which amounts to 8.14% of present rate revenues. Bakman requests rate recovery of that amount through a twelve-month rate increase, and approval to credit the same amount to CIAC. Division recommends a surcharge of \$5.82 per customer per month for twelve months ($\$124,450 / 1,781 \text{ customers} / 12 \text{ months}$) and concurs with the same amount of \$124,450 shall be credited to CIAC. Bakman also proposes that to the extent that the requested rate increase is not sufficient to amortize a small amount of lawsuit costs not yet paid, the one year period can be extended for one or two months, or a portion thereof. Division disagrees and recommends Bakman to transfer the amounts in the legal costs memorandum account to a balancing account for recovery.

COMPLIANCE

There are no outstanding Commission orders requiring system improvements. The utility has been filing annual reports as required.

FINDINGS

1. The expenses recorded in Bakman's memorandum account were prudent and necessary.

2. Bakman should be permitted to transfer the amounts in the memorandum account to a balancing account for recovery.
3. Bakman should be permitted to recover the amounts in the balancing account by imposing a surcharge of \$5.82 per customer per month for twelve months.
4. Bakman should be permitted to credit the amount of \$124,450 to CIAC.
5. This is an uncontested matter subject to the public notice comment exclusion provided in the PUC Code Section 311 (g) (2).

THEREFORE IT IS ORDERED THAT:

1. Bakman Water Company is permitted to transfer the amounts in the legal costs memorandum account to a balancing account for recovery.
2. Bakman Water Company is permitted to recover the amounts in the balancing account by imposing a surcharge of \$5.82 per customer per month for twelve months.
3. Bakman Water Company is permitted to credit the amount of \$124,450 to contribution-in-aid-of-construction.
4. This resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted at the Public Utilities Commission of the State of California on March 12, 2009; the following Commissioners voting favorably thereon:

/s/ PAUL CLANON

Paul Clanon
Executive Director

MICHAEL R. PEEVEY
President

DIAN M. GRUENEICH

JOHN A. BOHN

RACHELLE B. CHONG

TIMOTHY ALAN SIMON

Commissioners